

THE BOSTANY LAW FIRM

40 WALL STREET

61ST FLOOR

NEW YORK, NEW YORK 10005-1304

TEL: 212-530-4400

FAX: 212-530-4455

NEW JERSEY OFFICE

ONE GATEWAY CENTER
NEWARK, NJ 07102

February 7, 2008

Hon. Debra C. Freeman
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *GMA v. Eminent, Inc., et. al*
Docket No.: 07 CV 3219 (LTS) (DF)

Your Honor:

The following is a status update on the issues addressed by the Court during the last conference on November 28, as well as the Orders dated December 5 and December 11.

Retailer Defendants' Depositions

Retailer Defendants Lisa Kline, Inc., Lewis Tierney, Jonathan Singer, Wink, NYC, Inc., and Intermix, Inc., were noticed in November 2007 to appear for depositions in December 2007. On November 28th, during a conference call with your Honor, Mr. Grand mentioned that several of his clients were not available on their noticed dates. At your Honor's direction, we attempted to confer quickly and work out new deposition dates. On November 29 and for 2 weeks thereafter, we attempted to obtain new dates but to no avail.

On December 10, we summarized our efforts in a letter to Mr. Grand annexed as Exhibit A. On December 11, Mr. Grand gave dates for some of the retailers, which we accepted via letter dated December 12. Both letters are respectfully attached as Exhibits B and C. Mr. Grand acknowledges receipt of the December 12 letter. But the deponents never appeared. We brought this matter to Mr. Grand's attention and Mr. Grand replied he does "not agree that there was any agreement." He had the same explanation for WINK's "no show" on January 7. See January 14 emails annexed as Exhibit D.

On January 25, we suggested that the parties enter into a stipulation so that new deposition dates would be set and the Court would not have to be involved. We were met with uncooperation as Mr. Grand responded that he did not believe a stipulation was necessary. Between January 25 and February 5, Mr. Grand did not confirm our proposed dates. Mr. Grand advised me on February 5, when I finally got him on the phone, that he still could not give me dates for Jonathan Singer or Wink. I sent him a stipulation for the depositions for the 3 defendants Mr. Grand said he could confirm for dates selected by Mr. Grand. However, he refuses to sign it. A copy is attached at Exhibit E.

Discovery Requests


Turning to the issue of defendants' document requests, in summary, *GMA v. Eminent, et al.*, and *Sanei (Charlotte Ronson) v. GMA* are 2 actions pending in this court.¹ Both *Sanei* and the retailer defendants in *Eminent* are represented by the same firm, but a separate team of lawyers claims to be handling each party with Mr. Sacks acting as the leader for both cases. Though the discovery requests and our responses are almost identical, I have been contacted by several members of each team to schedule separate "meet and confers" with me on separate dates. This strategy is, I believe, designed to unnecessarily increase attorney's fees for GMA.

On January 14, I invited counsel to inspect all GMA's documents in both cases. A copy of both the letter and the confirmation of counsel's receipt on January 14 are attached as Exhibit F. Defense counsel claims not to have received this letter. On February 1, we emailed another copy. See Exhibit G. We have urged the numerous attorneys from the Dreier firm to "meet and confer" with us together, see Exhibits H and I. Yesterday, we faxed Mr. Grand, Mr. Sacks, Ms. Daddio and Ms. Grieco, another letter offering to make copies of our documents for them and again asking for a joint meet and confer. See Exhibit J.

Revised Scheduling Order

Finally, we have been unable to obtain signature from Mr. Grand on the Consent Scheduling Order that your Honor directed the parties to prepare in the memo endorsed order of December 5. A revised Scheduling Order which incorporates the dates set in the December 5 order is enclosed along with a courtesy copy of Judge Swain's original order.

Respectfully,


 Crystal S. A. Scott

cc: Robert Grand, Esq. (via fax)
 Robert Carillo, Esq. (via fax)

¹ Mr. Grand brought the *Sanei* case but failed to mark it as related on the civil cover sheet even though it involves similar goods, the same mark and almost identical issues, and so it is assigned to Judge McMahon.

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NEW JERSEY OFFICE

ONE GATEWAY CENTER
NEWARK, NJ 07102

December 10, 2007

VIA TELECOPIER

Robert J. Grand, Esq.
Dreier LLP
499 Park Avenue
New York, NY 10022

Re: *GMA v. Eminent*


Dear Mr. Grand:

On November 28th, during a conference call with M.J. Freeman, you mentioned that some of the dates for the upcoming depositions might not be convenient for your clients. Judge Freeman directed the parties to meet and confer fairly quickly and work out new dates if necessary. The file shows that we contacted you a few times in an effort to obtain new dates if need be. We did not receive any new dates from you and the schedule remains as follows:

DATE	TIME	DEPONENT
12/17/07	10:00 A.M.	JONATHAN SINGER
12/17/07	12:00 P.M.	LEWIS TIERNEY
12/17/07	2:00 P.M.	LISA KLINE, INC.
12/27/07	2:00 P.M.	WINK NYC, INC.
12/28/07	2:00 P.M.	INTERMIX, INC.

I understand that you were not comfortable with a 10 day extension to exchange the documents and complete interrogatory responses. You mentioned in your December 4th letter to Judge Freeman that your documents may be ready by the close of last week. May I offer you an extension to Friday, December 14th?

Sincerely,


Crystal S. A. Scott

cc: Robert Carillo, Esq

DREIER^{LLP}

ATTORNEYS AT LAW

Robert J. Grand, Partner
Direct 212 328 6118
rgrand@dreierllp.com

December 11, 2007

VIA FACSIMILE

Crystal S. A. Scott, Esq.
The Bostany Law Firm
40 Wall Street - 61st Floor
New York, NY 10005

Re: *GMA Accessories, Inc. v. Eminent, Inc. et al.*, 07CV3219(LTS)

Dear Ms. Scott:

In response to your letter of December 10, 2007, please note that we have previously informed your firm that Intermix, Jonathan Singer and Wink NYC, Inc. are not available on their noticed dates. Contrary to the suggestion in your letter, we did not state merely that these dates "might not be convenient" for these defendants. A representative from Wink NYC, Inc. will be available during and after the week of January 7. A representative from Intermix will not be available until mid-January. We are awaiting alternate dates from Mr. Singer and will provide those to you as soon as we obtain that information.

Your office has also been made aware that Lewis Tierney and a representative from Lisa Kline are available on their noticed date -- December 17, 2007. However, as you are undoubtedly aware, Lisa Kline is in Los Angeles and a representative will be available to sit for a deposition on December 17 in Los Angeles, not New York. The notices of deposition call for the Tierney deposition to begin at 12:00 p.m. and for the Lisa Kline deposition to begin at 2:00 p.m. Obviously, we cannot agree to have both depositions go forward on December 17, unless you tell us that two separate lawyers from your firm will conduct the depositions on the same day in New York and in Los Angeles. Furthermore, given that the responses to the document requests served upon Tierney and Lisa Kline are not due until December 14, and that both clients are still in the process of gathering responsive documents, it seems to make little sense to proceed with either of these depositions next week. I would suggest that both of these depositions be rescheduled for sometime in January after the totality of documents from these defendants have been gathered and produced to your firm and you have had ample time to review them.

499 Park Avenue New York, New York 10022
Telephone 212 328 6100 Facsimile 212 328 6101
Los Angeles · Stamford · Albany
www.dreierllp.com

{00312478.DOC;}

THE BOSTANY LAW FIRM

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NEW JERSEY OFFICE

ONE GATEWAY CENTER
NEWARK, NJ 07102

December 12, 2007

Robert J. Grand, Esq.
Dreier LLP
499 Park Avenue
New York, NY 10022

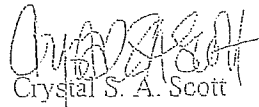
Re: *GMA v. BOP, LLC, et. al*
Docket No.: 07 CV 3219 (LTS)

Dear Mr. Grand:

Thank you for your December 11, 2007 letter responding to mine of December 10, 2007.

We will accommodate your request to postpone the WINK deposition to January 7, 2008, the INTERMIX deposition to "mid January" (we will select January 15, 2008 unless you indicate otherwise), and the LISA KLINE deposition to "sometime in January" (please provide a date). We accept your invitation to proceed with LEWIS TIERNEY on December 17, 2007 assuming his document production is complete by then.

Sincerely,


Crystal S. A. Scott

cc: Robert Carillo, Esq.

Message

Page 3 of 7

sufficient for you to believe that the dates agreed upon were real.

Please sign the enclosed Stipulation and return it to me or if the dates are not acceptable, please contact me so that we can again propose dates that are acceptable to you.

Crystal S. A. Scott, Esq.
The Bostany Law Firm
40 Wall Street, 61st Floor
New York, New York 10005
T: 212-530-4410
F: 212-530-4488
E: crystal.scott@bozlaw.com

From: Robert Grand [mailto:rgrand@dreierllp.com]
Sent: Monday, January 14, 2008 2:36 PM
To: crystal.scott@bozlaw.com
Cc: Ira S. Sacks; dana.melis@bozlaw.com; John Bostany
Subject: RE: Retailer Depositions

Ms. Scott,

I've seen your December 12 letter and my response. I still do not agree that there was any agreement from our perspective on the dates and times of those depositions. We certainly would not have been a "no show" to a deposition that we had scheduled, either intentionally or unintentionally.

Please let me know if the proposed dates work for Plaintiff.

Robert J. Grand
Partner

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New York, NY 10022
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-----Original Message-----

From: Crystal S. A. Scott [mailto:crystal.scott@bozlaw.com]
Sent: Monday, January 14, 2008 2:04 PM
To: Robert Grand
Cc: Ira S. Sacks; dana.melis@bozlaw.com; 'John Bostany'
Subject: RE: Retailer Depositions

Mr. Grand

I don't know why you would be confused. On December 13 you acknowledged receipt of my December 12 letter wherein I accepted all of your proposed dates, 2 of which were on definite dates, Jan. 7 (Wink) and Jan. 15 (Intermix). Another copy of my Dec. 12 letter is attached.

You responded on Dec. 13 as follows: "I had not seen Ms. Scott's letter before this evening. It does answer most questions raised in my letter. The one question still is with respect to Mr. Tierney's deposition".

Crystal S. A. Scott, Esq.
The Bostany Law Firm
40 Wall Street, 61st Floor
New York, New York 10005
T: 212-530-4410
F: 212-530-4488
E: crystal.scott@bozlaw.com

From: Robert Grand [mailto:rgrand@dreierllp.com]
Sent: Monday, January 14, 2008 12:34 PM
To: crystal.scott@bozlaw.com
Cc: Ira S. Sacks; dana.melis@bozlaw.com; John Bostany
Subject: RE: Retailer Depositions

Ms. Scott,

Apparently there has been a miscommunication regarding the Intermix and Wink depositions. As I recall, in

2/6/2008

Message

Page 4 of 7

December, before the break, the depositions of the retailer defendants were noticed for December 17 and December 27 and 28. We notified you that those dates were not good and did provide you with alternative dates for some of the retailer defendants. With respect to WINK, we informed you that a witness from WINK could be available during the week of January 7 or after. We never agreed to a date during that week, or anytime thereafter.

Similarly, as to the Intermix deposition you refer to for tomorrow, I recall that we informed you that a witness from Intermix would not be available until mid-January. Again, we never agreed to a deposition for tomorrow.

In the future, and to avoid additional miscommunication, please confirm the date and start time of depositions with our office in advance, rather than to presume that a deposition has been scheduled on available dates that we may have suggested.

In view of the foregoing, I will reach out to representatives from WINK and Intermix for available dates and get back to you.

Sincerely,

Robert J. Grand
Partner

~~DREIER LLP~~
499 Park Avenue
New York, NY 10022
Office (212) 328-6160
Fax (212) 652-3881
www.dreierllp.com

-----Original Message-----

From: Crystal S. A. Scott [mailto:crystal.scott@bozlaw.com]
Sent: Monday, January 14, 2008 11:22 AM
To: Robert Grand
Cc: Ira S. Sacks; dana.melis@bozlaw.com; 'John Bostany'
Subject: Retailer Depositions

Mr. Grand

Please confirm that you will appear for the INTERMIX deposition which was rescheduled on consent to tomorrow Jan. 15.

We continue to await dates for the TIERNEY & KLINE depositions.

Also, please note that defendant WINK no showed at the deposition that was set for Jan. 7

Crystal S. A. Scott, Esq.
The Bostany Law Firm
40 Wall Street, 61st Floor
New York, New York 10005
T: 212-530-4410
F: 212-530-4483
E: crystal.scott@bozlaw.com

From: Andrew T. Sweeney [mailto:andrew.sweeney@bozlaw.com]
Sent: Thursday, December 27, 2007 12:45 PM
To: 'Robert Grand'
Cc: 'Ira S. Sacks'; crystal.scott@bozlaw.com; dana.melis@bozlaw.com; 'John Bostany'
Subject: RE: Tierney deposition and documents

Where are we with this? We need the documents and a new date for the deposition

From: Robert Grand [mailto:rgrand@dreierllp.com]
Sent: Friday, December 14, 2007 10:46 AM
To: john@bozlaw.com; Andrew Sweeney
Cc: Ira S. Sacks
Subject: RE: Tierney deposition

I spoke with the client yesterday and the majority of documents (though there are not very many at all) will not be ready to be turned over today. He is still pulling together purchase/sales related documents, which were a bit difficult to extract. The Tierney documents I can send to you today appear to be old screenshots captured from a website showing Charlotte Solnicki merchandise and comprise less than 10 pages. Based on this, it doesn't seem to make sense to go forward on Monday.

Robert J. Grand

2/6/2008

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
GMA ACCESSORIES, INC., -----

Plaintiff,

v.

EMINENT, INC., SAKS FIFTH AVENUE, INC.,
INTERMIX, INC., WINK NYC, INC.,
LISA KLINE, INC., GIRLSHOP, INC.,
SHOWROOM SEVEN STUDIOS, INC.,
JONATHAN SINGER, LEWIS TIERNEY and
JONATHAN SOLNICKI,

Defendants,

07 CV 3219 (LTS)(DCF)

STIPULATION

It is hereby stipulated and agreed by and between the undersigned parties hereto that the appearance dates for the July 25, November 20, and November 23, 2007, Notices of Depositions are modified as follows:

LEWIS TIERNEY	February 8, 2008	10:00AM
LISA KLINE, INC.	February 20, 2008	2:00PM
INTERMIX, INC.	March 11, 2008	10:00AM

Dated: New York, New York
February 5, 2008

Robert J. Grand
Dreier LLP
499 Park Avenue
New York, New York 10022
Attorneys for Defendants Saks Fifth Avenue, Inc.
Intermix, Inc., Wink NYC, Inc.,
Lisa Kline, Inc., Jonathan Singer and Lewis Tierney

Robert Canillo, Esq.
Garvey Schubert Barer
100 Wall Street, 20th Floor
New York, New York 10005
Attorney for Defendant,
Eminent, Inc.

Crystal S. A. Scott
The Bostany Law Firm
40 Wall Street, 61st Floor
New York, New York 10005
Attorney for Plaintiff GMA Accessories, Inc.

THE BOSTANY LAW FIRM

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NEW JERSEY OFFICE

ONE GATEWAY CENTER
NEWARK, NJ 07102

January 14, 2008

Robert J. Grand, Esq.
Dreier LLP
499 Park Avenue
New York, NY 10022

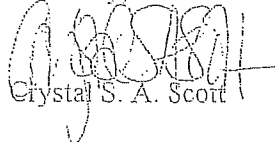
Re: *GMA v. Eminent*

Dear Mr. Grand:

We are amending Responses 10-12 of our January 4 interrogatory responses to include an agreement with Wright Medical.

With regard to inspection of documents, you may inspect on most days. Please let us know at least one week in advance when you plan to inspect.

Sincerely,


Crystal S. A. Scott

cc: Robert Carillo, Esq.

P. 01

TRANSACTION REPORT

JAN-14-2008 MON 01:42 PM

TX (MEMORY)

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THE BOSTANY LAW FIRM

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NEW JERSEY OFFICEONE GATEWAY CENTER
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January 14, 2008

Robert J. Grand, Esq.
 Dreier LLP
 499 Park Avenue
 New York, NY 10022

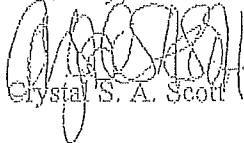
Re: *GMA v. Eminent*

Dear Mr. Grand:

We are amending Responses 10-12 of our January 4 interrogatory responses to include an agreement with Wright Medical.

With regard to inspection of documents, you may inspect on most days. Please let us know at least one week in advance when you plan to inspect.

Sincerely,



Crystal S. A. Scott

William Waters

From: William Waters [william.waters@bozlaw.com]
Sent: Friday, February 01, 2008 1:31 PM
To: 'Jennifer Daddio'
Cc: 'Mary Grieco'; 'john@bozlaw.com'; 'crystal.scott@bozlaw.com'
Subject: GMA v. Eminent, Sanei v. GMA
Attachments: Ltr.Grand (Discovery)1.14.08.doc.pdf

Dear Jennifer,

I am not an attorney, but I wanted to let you know that Crystal is not in today. Here is a January 14 letter from Crystal to Mr. Grand from your office that I think answers your question about GMA's production of documents. They can be inspected at 245 Secaucus Road in Secaucus, New Jersey, but please note that GMA is producing these documents for both of the above cases.

William Waters
The Bostany Law Firm
40 Wall Street, 61st Floor
New York, New York 10005
P: (212) 530-4411
F: (212) 530-4488
william.waters@Bozlaw.com

Message

Page 1 of 2

Crystal S. A. Scott

From: Crystal S. A. Scott [crystal.scott@bozlaw.com]
Sent: Tuesday, February 05, 2008 5:52 PM
To: 'Mary Grieco'
Cc: 'Ira S. Sacks'; 'Safia Anand'; 'Jennifer Daddio'; 'Robert Grand'; 'john@bozlaw.com'; 'Robert Carrillo'
Subject: RE: Sanei v. GMA; GMA v. Eminent

Mary,

It is not productive to require us to confer with other attorneys from your firm about the same issues in separate conferences. It is similarly counter-productive to require us to make appointments with various lawyers from your firm. We ask that you and your associates find out what date and time is good for you all to confer.

Thank you for your anticipated cooperation.

Crystal S. A. Scott, Esq.
The Bostany Law Firm
40 Wall Street, 61st Floor
New York, New York 10005
T: 212-530-4410
F: 212-530-4488
E: crystal.scott@bozlaw.com

From: Mary Grieco [mailto:mgrieco@dreierllp.com]
Sent: Tuesday, February 05, 2008 3:10 PM
To: crystal.scott@bozlaw.com
Cc: Ira S. Sacks; Safia Anand; Jennifer Daddio; Robert Grand
Subject: Sanei v. GMA

Crystal,

As we discussed today, we will call you on February 14, 2008 at 3:00 for the discovery conference involving GMA's responses to Sanei's discovery requests. With regard to our inspection of GMA's documents, I advised you that we would discuss the same during our conference.

With regard to the Emminent case, please contact Jennifer Daddio or Rob Grand to arrange a date and time for the inspection of documents or any other issues involved in that matter. I am not one of the attorneys working on that case.

Thank you.

Mary L. Grieco, Esq.

DREIER LLP
499 Park Avenue
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2/6/2008

Message

Page 1 of 1

Crystal S. A. Scott

From: Crystal S. A. Scott [crystal.scott@bozlaw.com]
Sent: Tuesday, February 05, 2008 5:36 PM
To: 'Jennifer Daddio'
Cc: 'Ira S. Sacks'; 'Robert Grand'; 'Safia Anand'; 'Mary Grieco'; 'john@bozlaw.com';
'william.waters@bozlaw.com'
Subject: RE: GMA v. Eminent, Sanei v. GMA

Jennifer,

If you recall, we invited you to not only inspect our documents but also to let us know a week in advance when you plan to inspect in a letter I wrote to Robert Grand dated January 14. I find it hard to believe that no one in your office saw that letter before February 1st as you wrote in your email to Mr. Waters. A copy of both the letter and the confirmation of your receipt on January 14 are attached here for your review.

We were courteous and gracious enough to follow up with you and other attorneys at your firm. We wrote to Mr. Grand, you and Ms. Greico and we called Ms. Greico earlier this afternoon. It is our practice to effectively communicate with our staff and we ask that you do the same since there are about seven of you working on these cases and you do not seem to be communicating with each other. We will not engage in double production of documents as it is costly and inefficient. We will provide the same documents to be inspected in both the *Eminent* and *Sanei* cases. Therefore, we suggest that you coordinate with your office to inspect documents when Ms. Greico or anyone else working on *Sanei* inspects.

Crystal S. A. Scott, Esq.
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2/6/2008

THE BOSTANY LAW FIRM

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NEW JERSEY OFFICE

ONE GATEWAY CENTER
NEWARK, NJ 07102

February 6, 2008

VIA TELECOPIER

Robert J. Grand, Esq.
Jennifer Daddio, Esq.
Mary L. Greico, Esq.
Ira S. Sacks, Esq.
Dreier LLP
499 Park Avenue
New York, NY 10022

Re: *GMA v. Eminent; Sanei v. GMA*

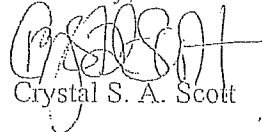
Dear Counsel:

As we have been trying to explain to you, you may inspect GMA's sales orders at its place of business in Secaucus, NJ at 245 Secaucus Road. As I stated in my January 14 letter, please give us at least 1 week notice of the date and time you intend to inspect and we will accommodate you.

We have approximately 2,000 pages of documents that are not sales orders here at 40 Wall Street, which you may inspect pursuant to this same procedure. Alternatively, we can have documents copied for you upon advance payment of \$0.15 per copy.

Please note that if anyone from your firm wishes to confer about the GMA document production, all interested attorneys must be on this conference. Plaintiff should not have to pay for multiple conferences with various attorneys from your firm regarding its document production.

Sincerely,


Crystal S. A. Scott

cc: Robert Carillo, Esq

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
GMA ACCESSORIES, INC.

Plaintiff,

- against -

REVISED SCHEDULING ORDER

Civil Action No.: 07CV3219 (LTS) (DCF)

EMINENT, INC., SAKS FIFTH AVENUE, INC.,
INTERMIX, INC., WINK NYC, INC., LISA KLINE,
INC., GIRLSHOP, INC., SHOWROOM SEVEN
STUDIOS, INC., JONATHAN SINGER, LEWIS
TIERNEY and JONATHAN SOLNICKI,

Defendants.

-----X
The dates set out in Judge Swain's case management plan dated August 23, 2007 are revised on consent as follows and all other provisions remain in force:

1) Discovery

All non-expert witness discovery in this matter shall be completed by February 29, 2008.

All expert witness discovery shall be completed by May 22, 2008.

2) Dispositive Pre-Trial Motions

Dispositive motions, if any, seeking resolution, in whole or in part, of the issues to be raised at trial shall be served and filed on or before June 27, 2008.

3) Final Pre-Trial Conference

The parties are directed to appear for a final pre-trial conference on August 15, 2008.

Dated: New York, New York
February 7, 2008

SO ORDERED

Hon. Debra. Freeman, U.S.M.J.

P. 01

TRANSACTION REPORT

FEB-07-2008 THU 02:10 PM

TX (MEMORY)

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TOTAL				0:02:14	15			

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February 7, 2008

Hon. Debra C. Freeman
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 Southern District of New York
 Daniel Patrick Moynihan United States Courthouse
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 New York, New York 10007

Re: *GMA v. Eminent, Inc., et. al*
 Docket No.: 07 CV 3219 (LTS) (DF)

Your Honor: :

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Retailer Defendants' Depositions

Retailer Defendants Lisa Kline, Inc., Lewis Tierney, Jonathan Singer, Wink, NYC, Inc., and Intermix, Inc., were noticed in November 2007 to appear for depositions in December 2007. On November 28th, during a conference call with your Honor, Mr. Grand mentioned that several of his clients were not available on their noticed dates. At your Honor's direction, we attempted to confer quickly and work out new deposition dates. On November 29 and for 2 weeks thereafter, we attempted to obtain new dates but to no avail.

On December 10, we summarized our efforts in a letter to Mr. Grand annexed as Exhibit

P. 01

TRANSACTION REPORT

FEB-07-2008 THU 02:15 PM

TX (MEMORY)

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NEWARK, NJ 07102

February 7, 2008

Hon. Debra C. Freeman
 United States Magistrate Judge
 Southern District of New York
 Daniel Patrick Moynihan United States Courthouse
 500 Pearl Street
 New York, New York 10007

Re: *GMA v. Eminent, Inc., et. al*
 Docket No.: 07 CV 3219 (LTS) (DF)

Your Honor:

The following is a status update on the issues addressed by the Court during the last conference on November 28, as well as the Orders dated December 5 and December 11.

Retailer Defendants' Depositions

Retailer Defendants Lisa Kline, Inc., Lewis Tierney, Jonathan Singer, Wink, NYC, Inc., and Intermix, Inc., were noticed in November 2007 to appear for depositions in December 2007. On November 28th, during a conference call with your Honor, Mr. Grand mentioned that several of his clients were not available on their noticed dates. At your Honor's direction, we attempted to confer quickly and work out new deposition dates. On November 29 and for 2 weeks thereafter, we attempted to obtain new dates but to no avail.

On December 10, we summarized our efforts in a letter to Mr. Grand annexed as Exhibit